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EXAMINER

FISCHMANN, BRYAN R

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/077,973

Applicant(s)
TOMASI, ET AL

Examiner
Bryan Fischmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 24, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 20, 2002 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Acknowledgments

1. The Preliminary Amendment (paper 2) filed 2-20-2002 has been entered.

Specification

2. The abstract of the disclosure is objected to because of the following:

A) The abstract is titled "Summary"

B) The abstract uses legal terms such as "said" (see MPEP 608.01(b)). Also, the use of the term "the said" in the abstract is considered redundant, as the words "the" and "said" are understood to convey the same meaning, namely that what follows has been previously mentioned, or referred to.

C) The term "Fig. 6" appears at the bottom of the abstract

3. The disclosure is objected to because of the following:

A) The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

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Note that sheet 11 incorporates a foreign patent by reference.

B) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

1) It is not clear why the sentence which begins with the word "Besides" on line 9 of sheet 1 begins on a new line, as if it is the beginning of a new paragraph.

2) The recitation of "...that will be better appear below..." on line 1 of sheet 2 is considered awkward.

3) Line 18 of sheet 3 recites "e".

4) The recitation of "It will be realize that also..." on line 1 of sheet 9 is considered awkward and also appears grammatically incorrect.

5) While not strictly objectionable, Applicant may wish to consider whether the British variation spelling of the word "manoeuvre" on line 10 of sheet 5 is preferred.

C) The following inconsistencies in nomenclature were noted:

1) Lines 7 and 8 of sheet 4 recites "support rigid members or cases 4a and 4b". Line 4 of sheet 5 and line 30 of sheet 10 recites "motion transmission means 4a and 4b".

2) Lines 3 and 4 of sheet 5 recites "centralized control device 9". Line 6 of sheet 5, line 33 of sheet 9 and line 1 of sheet 10 recites "driving device 9". Line 15 of sheet 5 recites "centralized driving device 9". Lines 7 and 9 of sheet 7 recites "trigger-like lever 9". Line 11 of sheet 7 recites "lever 9". Line 29 of sheet 10 recites "handle grip 9".

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3) Line 11 of sheet 5 recites "steel cables 11". Line 29 of sheet 6 recites "sheathed cables 11".

4) Line 8 of sheet 6 recites "recess 85". Line 14 of sheet 6 and lines 10 and 11 of sheet 7 recites "opening 85".

5) Line 25 of sheet 6 recites "grip portion 8d". Line 22 of sheet 8 recites "Handle frame portion 8d".

6) Lines 26 and 33 of sheet 6 and line 21 of sheet 8 recites "support block 8a". Line 27 of sheet 7 recites "fixed portion 8a".

7) Line 20 of sheet 7 recites "manual annular flanged member 9f". Line 23 of sheet 7 recites "annular component 9f".

8) Line 26 of sheet 7 recites "upper end 13c". Line 24 of sheet 8 and line 18 of sheet 9 recites "engaging tooth 13c". Line 30 of sheet 8 and line 26 of sheet 9 recites "tooth 13c".

9) Line 1 of sheet 8 recites "shank portion 86". Line 5 of sheet 8 recites "shank 86". Line 15 of sheet 8 recites "stem 86".

To avoid confusion to the reader, and to facilitate identifying components by nomenclature in the claims, it is requested Applicant use consistent nomenclature for the same reference number throughout the specification.

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Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motion transmission means comprises an electrically driven motion transmission means as recited in claim 26, that the motion transmission means comprises fluid-operated transmission means as recited in claim 27 and that the lock/release mechanism comprises an electromechanical control system as recited in claim 29 must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 1-29 objected to because of the following:

A) Claim 1 is not preceded with a statement such as "I claim", "We claim", or "The claimed invention is". See Section 608.01(m) of the MPEP.

B) Throughout the claims the Applicant uses the words "the said" together. See for example line 11 of claim 1 and line 1 of claim 5. The use of the term "the said" is considered redundant, as the words "the" and "said" are understood to convey the same meaning, namely that what follows has been previously mentioned, or referred to.

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C) The recitation of “a respective rear struts” on line 6 of claim 1 is grammatically incorrect.

D) Line 8 of claim 1 recites “lock-release mechanism”. Claims 3, 12, 28 and 29 recite “lock/release mechanism”.

For consistency, it is requested Applicant use the same delimiter (“dash” or “slash”) between the words “lock” and “release” throughout the claims.

E) Although reference numbers/characters within parenthesis in the claims are not given patentable weight, when used, they should be correct and consistent.

It was noted that claim 9 associates reference character 9a only with the term “actuation lever member” while claim 10 associates both reference number 9 and reference character 9a with the term “actuation lever member”

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 26, 27 and 29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

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Claim 26 recites "...said motion transmission means...comprises an electrically driven motion transmission means".

Support for this recitation is only found by the Examiner in the last lines of sheet 10 which recite "...the connection between the handle grip 9 and the motion transmission means 4a, 4b could be one of a number of mechanical means (e.g. struts, stay rods and various mechanical electromagnetic or pneumatic or hydraulic systems).

Note that this recitation does not even explicitly state "electrically driven motion transmission means". However, even if it had, it is still not believed that Applicant has satisfied the written description requirements of 35 USC 112 first paragraph.

The "written description" requirement requires that Applicant sets forth enough information regarding the claimed matter that one skilled in the art would conclude that the claimed matter had been actually or constructively reduced to practice at the time the invention was made. To the contrary, it would appear that Applicant has only "conceptually" considered an electrically driven motion transmission means, thus failing to meet the written description requirement of 35 USC 112 first paragraph. See Section 2163 of the MPEP.

Similarly, the recitation of "...the motion transmission means...comprises fluid-operated motion transmission means" in claim 27, and "...at the lock/release mechanism...comprises an electromechanical control system in claim 29 are also considered to fail to meet the written description requirement of 35 USC 112 first paragraph for similar reasons.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicants regard as their invention.

Note: The claims are considered to be replete with unclear matter. Therefore, a comprehensive listing of all unclear matter cannot be guaranteed. Applicant is advised to review all claims for unclear matter.

A) Line 1 of claim 1 recites "An umbrella-type folding frame...particularly for push-chairs and the like...".

This recitation leaves unclear by the use of the word "particularly" and "the like" what other applications Applicant may be claiming for the folding frame besides a "push chair".

A) Claim 1 recites the limitation "the sequential effect of said driving device". There is insufficient antecedent basis for this limitation in the claim.

It is also not considered clear what is meant by the words "the sequential effect" in the above recitation.

B) The last two lines of claim 1 recites "...causes the folding frame...to set from an open...position to a closed...position".

The use of the word "set" in this recited phrase is considered unclear.

C) Claim 9 recites the limitation "the said actuation lever member". There is insufficient antecedent basis for this limitation in the claim.

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D) Claim 9 recites the limitation "the said engagement tooth". There is insufficient antecedent basis for this limitation in the claim.

E) Claim 11 recites the limitation "said manual actuation member". There is insufficient antecedent basis for this limitation in the claim.

F) Claim 11 recites the limitation "the said motion transmission means". There is insufficient antecedent basis for this limitation in the claim.

G) Claim 12 recites "A folding frame according to any previous claim 1...". Since there is only one claim 1, the meaning of this recited phrase is considered unclear.

See a similar unclear recitation at the beginning of claim 14.

H) Claim 12 recites the limitation "said angularly displaceable grid". There is insufficient antecedent basis for this limitation in the claim.

I) Claim 13 recites "...a pulley member...rigid in rotation...". The meaning of this recited phrase, particularly the word "rigid" is considered unclear.

J) Claim 14 recites "...an end T-shaped handling portion...". It is considered unclear what shape of what component Applicant is attempting to describe by this recitation.

K) Claim 15 recites the limitation "the said locking means". There is insufficient antecedent basis for this limitation in the claim.

See also an identical recitation lacking antecedent basis in claim 18.

L) Claim 17 recites the limitation "the said motion transmission means". There is insufficient antecedent basis for this limitation in the claim.

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M) Claim 18 recites the limitation "the said locking means". There is insufficient antecedent basis for this limitation in the claim.

N) Claim 20 recites the limitation "the said lever member". There is insufficient antecedent basis for this limitation in the claim.

O) Claim 20 recites the limitation "said tooth". There is insufficient antecedent basis for this limitation in the claim.

P) Claim 20 recites the limitation "said cursor member". There is insufficient antecedent basis for this limitation in the claim.

Q) Claim 20 recites the limitation "the other arm". There is insufficient antecedent basis for this limitation in the claim.

R) The recitation of "said arm" on the penultimate line of claim 20 leaves clear what arm is being referred to, since more than one "arm" has been claimed previously in claim 20.

S) Claim 21 recites the limitation "said bell crank". There is insufficient antecedent basis for this limitation in the claim.

T) Claim 22 recites the limitation "said motion transmission means". There is insufficient antecedent basis for this limitation in the claim.

U) The meaning of the recitation "...arranged to be actuated by the said or by a respective lever member..." in claim 22 is considered unclear.

V) Claim 24 recites "A folding frame according to any of previous claim 22 or 23...". The use of the word "any" in this recited phrase renders the phrase unclear.

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Allowable Subject Matter

9. Claim 1 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, and the claim objections set forth in this Office action.
10. Claims 2-29 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and the claim objections, as applicable, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

11. The following is an Examiner's statement of reasons for allowance of independent claim 1:

Claim 1 recites the limitation (as paraphrased due to claim objections and 112 2nd rejections) of an umbrella-type folding frame comprising at least one lock-release mechanism between each upper strut and the respective lower strut, a lifting handle, an articulated connection structure and one driving device located on said articulated structure and arranged to control the lock-release mechanism whereby said driving device being articulated and the lifting handle being lifted causes the folding frame to be configured from an open to a closed position. This limitation, in combination with the other limitations of claim 1, were not found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Cabagnero - teaches collapsible baby stroller
- B) MacLaren, et al - teaches collapsible baby stroller
- C) Liu - teaches collapsible baby stroller
- D) Shamie (2 patents) - teaches collapsible baby stroller
- E) Lan - teaches collapsible baby stroller
- F) British Patent 2145982 - teaches collapsible baby stroller
- G) French Patent 2579545 - teaches collapsible baby stroller
- H) Japanese Patent 2234876 - teaches collapsible baby stroller
- I) Japanese Patent 40252770 - teaches collapsible baby stroller

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. The examiner can normally be reached on Monday through Friday from 7:30 to 4:00.

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If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson, can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Bryan Fischmann 1-27-3
BRYAN FISCHMANN
PATENT EXAMINER